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Attorneys for Adriana Fernandez

IN THE UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF CALIFORNIA  
 (HONORABLE MARILYN L. HUFF)

ADRIANA FERNANDEZ,	)	Case No. 08-cv-00601-H-JMA
	)	
Plaintiff,	)	<b>DECLARATION OF DAVID J. ZUGMAN</b>
	)	<b>IN SUPPORT OF PLAINTIFF'S</b>
	)	<b>OPPOSITION TO DEFENDANTS' MOTION</b>
v.	)	<b>TO DISMISS</b>
	)	
JAMES RAY MORRIS,	)	Date: July 14, 2008
HAROLD CARTER,	)	Time: 10:30 a.m.
RAYMOND LOERA,	)	Judge: Hon. Marilyn L. Huff
COUNTY OF IMPERIAL,	)	Court: 13
IMPERIAL COUNTY SHERIFF'S	)	
DEPARTMENT,	)	
and DOES 1-100, inclusive.	)	
	)	
Defendants.	)	

Attorney for Adriana Fernandez, David Zugman, files the following Declaration in Support of Plaintiff's Opposition to Defendants' Motion to Dismiss brought pursuant to the non-enumerated portion of Federal Rule of Civil Procedure 12(b).

I, David J. Zugman, hereby state and declare, under penalty of perjury under the laws of the state

1 of California. I have personal knowledge of the facts that follow. I aver to the following as an officer of  
2 the Court and I believe that all of the following facts are true. If called to testify in a court of law, I could  
3 and would testify in accordance with the contents of this declaration and I would submit myself to cross-  
4 examination.

5 1. I am one of the attorneys for Ms. Fernandez. I also represented Ms. Fernandez in her  
6 criminal case, *United States v. Fernandez*, 07CR0964-LAB. Ms. Fernandez was released from custody on  
7 that case on March 15, 2008.

8 2. Ms. Fernandez filed the instant action on April 2, 2008.

9 3. Ms. Fernandez's criminal case ended on August 27, 2007, the day the district court  
10 sentenced Ms. Fernandez and she waived her appeal and collateral attack.

11 4. I learned about the events underlying Ms. Fernandez's civil complaint only after she was  
12 transferred from the Imperial County Jail to the GEO facility in downtown San Diego. On June 28, 2007,  
13 Ms. Fernandez called me to say that she had been interviewed by Sheriff Raymond Loera regarding Deputy  
14 Morris's sexual misconduct.

15 5. Ms. Fernandez told me that she had asked to have me present for the interview, but that  
16 request was denied.

17 6. I visited Ms. Fernandez that same day and told her to fill-out grievance forms and to submit  
18 them to the Imperial County Jail.

19 7. I also called both the Imperial County Jail and the Geo Facility to obtain these forms. The  
20 forms were not provided.

21 8. Ms. Fernandez reported to me that the GEO Facility did not have the grievance forms for  
22 Imperial County Jail and that she did not have access to these forms.

23 9. After Ms. Fernandez's sentencing on August 27, 2007, I had her fill out the claim form for  
24 Imperial County. I received a filled-out form from Ms. Fernandez and I mailed it to the Imperial County  
25 Claim board on September 4, 2007.

26 10. After not hearing from the County for a couple of months and consulting with other  
27 attorneys, I was advised that I should refile with the County, this time via certified mail because the  
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1 County's record keeping is not infallible.

2 11. I sent in the late claim form that was provided by the Defendants in their motion to dismiss.  
3 In that late claim form, I said (just as I do in this declaration) that I sent in a form on September 4, 2007.

4 12. I did not change anything regarding the claim form that I sent on September 4, 2007, to the  
5 County when I applied for the late claim. I just detailed what I had done and explained that if the County  
6 did not receive the form, that was due to mistake, inadvertence, or other excusable neglect.

7 13. I aver that I sent the claim form in on September 4, 2007, to the County Claims's Board.

8 Executed on June 30, 2008, in San Diego, California.

9  
10 /s/ David Zugman

11 DAVID ZUGMAN

12 Declarant  
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PROOF OF SERVICE

I, the undersigned, declare that:

1. I am over eighteen (18) years of age; am a resident of the County of San Diego, State of California; and my business address is 964 Fifth Avenue, Suite 300, San Diego, California, 92101-5008.

2. I am effecting service of DECLARATION OF DAVID ZUGMAN on the following parties by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them:

J. Scott Tiedemann  
5701 N. West Avenue  
Fresno, CA 93711

3. I hereby certify that I have mailed the foregoing, by United States Postal Service to the following non-EFC participants in this case:

1. N/A

to the last known address, at which place there is delivery service of mail from the United States Postal Service.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 30, 2008.

S/David Zugman  
DAVID J. ZUGMAN